



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 06 2011

REPLY TO THE ATTENTION OF:

WS-15J

Kenneth G. Johnson
Division of Water
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707-7921

Subject: Joint Wisconsin Department of Natural Resources and Region 5 Program Evaluation

Dear Mr. Johnson:

Enclosed is our report documenting the Wisconsin Department of Natural Resources (WDNR) and United States Environmental Protection Agency Region 5 Water Division's joint program evaluation of WDNR's water program. A meeting to discuss the evaluation was held on November 23, 2011. As stated in the Office of Management and Budget Circular A-11, "Program evaluation is an important aspect of program planning and monitoring, assessing program results, and determining future funding levels." Likewise, EPA regulations in Part 35 require, for all continuing environmental programs, that we develop a process for "jointly evaluating and reporting progress and accomplishments under the work plan". WDNR and EPA are mutually accountable for program success and program evaluation is essential in determining whether both agencies have achieved long-range performance goals.

In light of ongoing management challenges (e.g., diminishing State resources and increasing demands on core programs), the need for program evaluations is increasing. Management from both agencies discussed performance highlights and accomplishments based on the commitments included in the Environmental Performance Partnership Agreement and ways to agree on how to improve collective performance. This joint evaluation further strengthened the understanding of our priorities in protecting the environment, helped support strategic and annual planning and accountability, as well as provided a good opportunity for team building.

Enclosed are the evaluation report and two signature pages, which I have signed. Please sign the signature pages, keeping one for your file and returning one to us for our records. Should you have any questions, please contact Dennis Wychocki of my staff at 312-886-0228.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde", with a long, sweeping horizontal line extending to the right.

Tinka G. Hyde
Director, Water Division

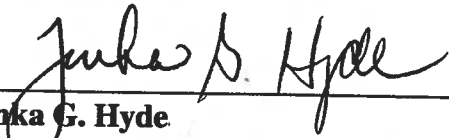
Enclosure

For the State of Wisconsin

Kenneth G. Johnson, Administrator
Division of Water
Wisconsin Department of Natural Resources

Date

For the U.S. Environmental Protection Agency, Region 5:



Tinka G. Hyde
Director, Water Division
U.S. Environmental Protection Agency, Region 5

5/6/11

Date

Wetlands and Watersheds

The Wetlands and Watersheds Branch (WWB) has worked with WDNR staff on TMDLs, NPS and Wetlands outlined in the WDNR's EnPPA. There are a number of successes to highlight and a few issues to be raised.

Branch Summary: WDNR successfully completed its TMDL list on schedule. While production of TMDLs was below WDNR's commitment due to delays in the TMDLs related to the Lower Fox River/Green Bay and Rock River Basin, this was due WDNR's interest in coordinating with promulgation of nutrient criteria.

1. Commitment: Integrated Basin Planning

WDNR will conduct watershed planning for one watershed per basin each year; this work involves updating watershed narratives and recommendations in WATERS as well as updating waterbody assessment status, recommendations, and narratives.

Commitment Status: WDNR has prepared water quality plan updates for 23 watersheds for Federal Fiscal Year 2010. These updates will be transmitted to the USEPA as formal amendments to the state's Area wide Water Quality Management Plan. These plans are located beneath their respective basin at: <http://dnr.wi.gov/water/basin/>.

2. Commitment: 305(b) Report and 303(d) List

Revise Wisconsin's 303(d) List by April 1 of even-numbered years and submit to U.S. EPA for approval.

Commitment Status: Wisconsin submitted its 2010 list on March 31, 2010. Region 5 is currently working to resolve issues on list. Region 5 needs to finalize our partial disapproval of Wisconsin's 2008 list prior to approval of 2010 list. Approvals expected in 2011.

WDNR expressed concerns regarding EPA's proposal to list Musky Bay on the 2008 list. A conference call was held in December 2010 to discuss the outstanding issues related to the Musky Bay listing. Wisconsin expressed concern over EPA's proposal to list based on the mere presence of aquatic invasive species, noting that such a precedent could have statewide ramifications. Wisconsin has since provided EPA with answers to a long list of questions which should enable EPA to conclude the listing process without further delay.

3. Commitment: Waters Assessed

WDNR: Perform water assessments included in the Integrated Report or alternative approach developed as part of the Wisconsin Assessment Methodology Project. Assess improvements in 12 digit HUC watersheds identified for inclusion under EPA Strategic Plan Measure 12 (formerly known as Measure W). WDNR plans to assess approximately

650 waters per year (which includes 25 watersheds per year via general assessments and 25 targeted assessments).

Commitment Status: Rivers/Streams, Lakes and Flowages in the 23 watersheds reviewed for planning in 2009-10 were reviewed to determine if sufficient data exists to conduct a general assessment 305(b) and/or an impaired waters assessment where indicated. The assessment methodology, WisCALM was used to evaluate results for macro invertebrate taxonomy and index values, fisheries (community, IBI values), selected chemistry parameters, and overall habitat values.

Datasets for each of the 23 watersheds were downloaded and provided to regional water quality biologists. The biologists reviewed the datasets and updated "current" status information in the Water Assessment Tracking and Electronic Reporting System (WATERS), which holds the state's water quality standards and assessment information. Approximately 650 waters were assessed for fish and aquatic life use support through this process and several of waters were further investigated for specific assessments (or impaired water assessments). The results of this work were entered into the WATERS database and submitted to the USEPA on March 31st as part of the state's Clean Water Act Integrated Report submittal for 2010.

An equal number of waters and watersheds will be assessed for the 2010-11 time period. These results will be entered into the WATERS system and will be submitted to USEPA as part of the 2012 Clean Water Act Integrated Report.

4. Commitment: TMDL Development

WDNR: Provide monitoring data; develop and implement watershed plans meeting specified criteria in impaired waters, and work through/with GMU partner groups to identify water quality objectives, strategies and schedules to accomplish elimination of water quality impairments at the listed waters. Participate on the Regional TMDL work groups as state resources allow.

Commitment Status: WDNR submitted two TMDLs in FY10. This is well below WDNR's commitment of 34 TMDLs for FY10.

WDNR has continued to work in partnership with EPA and its contractors to pursue completion of TMDLs for the Lower Fox/Green Bay (LFR/GB) Basin, as well as the Rock River Basin. These TMDLs were expected to be completed in FY10. WDNR delayed the final submission of the TMDLs for EPA approval, now expected in early FY11. It is EPA's understanding that this delay was in part related to coordinating release of the TMDL with efforts to promulgate nutrient criteria this fall. In addition, a number of other TMDLs are in development with varying partner, including the Tainter Lake/Lake Menomin TMDL (Red Cedar River System), Lake St. Croix TMDL (with State of Minnesota), Lake Mallelieu TMDL, Central Wisconsin River TMDL and Upper Fox/Wolf River Basin TMDL.

Status on each:

LFR/GB: A public hearing was conducted on the TMDL and a responsiveness summary was prepared. This report is awaiting management approval and submittal to USEPA. This TMDL is targeted for completion in FFY 2011.

Rock River TMDL: A draft of the Rock River TMDL has been provided to WDNR management for review. After management approval, the next step will be to conduct a public hearing on the draft TMDL after which it will be determined if changes are necessary. This TMDL is targeted for completion in FFY 2011.

Tainter/Menomoin: A draft of the TMDL has been reviewed by USEPA. Deficiencies were identified. WDNR is working to address deficiencies. This TMDL may be submitted in FFY 2011.

Lake St. Croix: A draft of the TMDL has been prepared by staff from the State of Minnesota and will be sent to USEPA for preliminary review soon. This TMDL may be submitted in FFY 2011.

Mill Creek TMDL: Second year of modeling analysis is underway with UW-Stevens Point. Anticipate final report from UW-SP mid-summer 2011 and possible submittal of TMDL during FFY 2011.

Upper Fox/Wolf River Basin: Monitoring is ongoing for this project. A final season of monitoring will be completed in 2011 and TMDL development will begin in earnest thereafter. This TMDL may be submitted in FFY 2013.

Wisconsin River TMDL: Monitoring is ongoing for this project. Two more seasons of monitoring are scheduled for 2011 and 2012. TMDL development will begin in earnest thereafter. This TMDL may be submitted in FFY 2014.

5. Commitment: TMDL Reporting

Report on the number of TMDLs under development, submitted to EPA and approved by EPA. Report annually on the percentage of the TMDLs required for water currently on the 303(d) list.

Commitment Status: Complete. WDNR is in regular communication with EPA regarding the status of all active TMDLs. See #4 above.

6. Commitment: TMDL List Development and Completion

WDNR: Conduct water quality monitoring and modeling necessary to develop TMDLs. WDNR will continue to identify and assure implementation of Accountability Pilot Projects that address impaired waters in Wisconsin. WDNR will communicate regularly

on TMDL/Pilot status and gaps that exist that hinder WDNR's efforts to meet commitments.

Commitment Status: Wisconsin submitted its TMDL list on schedule. See #5 above.

7. Commitment: Lower Fox River/Green Bay and Rock River Basin TMDLs

WDNR: Continue development of TMDLs for the Lower Fox River/Green Bay and Rock River Basin.

Commitment Status: Submittal of Rock River and Green Bay TMDLs was expected in FY10. These are now delayed to early FY11. WDNR has kept Region 5 informed of progress and obstacles. See #4 above.

8. Commitment: TMDL and Watershed Project Implementation

WDNR: Develop TMDL implementation plans, watershed plans, and status reports. When addressing nonpoint source impairments, develop TMDL implementation plans consistent with EPA's Section 319 "9 key elements" for watershed-based plans.

Commitment Status: The EPA met with WDNR staff and reviewed the nine elements and believes they will see increased incorporation of the key elements. In regards to nine element plans, WDNR has been working towards incorporating the 9 key elements into their TMDL efforts. As new TMDLs are developed, implementation plans for the load allocations are expected to be consistent with the nine elements, as appropriate. WDNR has approached DATCP and others about integrating the nine elements into County Land and Water Resource management plans as they come up for revision.

TMDL implementation planning efforts are currently underway in the following basins/watersheds: Mead Lake, Parsons Creek, Rock River, and Lake St. Croix. TMDL implementation planning will also be initiated in the Lower Fox River Basin and the Tainter/Menominee Lakes Watershed during FFY 2011.

9. Commitment: TMDLs and Trading

WDNR evaluates proposals for TMDL trading as needed.

Commitment Status: The WDNR evaluates water quality trading proposals on a case-by-case basis. The Department currently has no proposals in-house. A workgroup comprised of WDNR staff, members of the regulated community and advocacy groups has been formed to develop a water quality trading framework at the request of Wisconsin's Natural Resources Board. A final report is due to the Board by July 1, 2011.

Nonpoint Source Program-(NPS)

Branch Summary: WDNR has been a major contributor to the NPS Program. However, there is a concern on entry of this information into the Headquarters system; Regional staff have met with and provided training to the new 319 coordinator and believe there will be improvement in this area in 2011. Region 5 encourages WDNR to train a second person on entry of information into GRTS.

We believe there will be an increased incorporation of the 9 key elements into plans next year; WDNR has worked toward incorporating the 9 key elements into their TMDL efforts. As new TMDLs are developed, as appropriate, their implementation plans for the load allocations is expected to be consistent with the 9 elements. WDNR has done an analysis of Land and Water Resource Management (LWRM) plan content. These plans do not meet all of the 9 key elements (some not all). Because DATCP is the lead authority under Chapter. 92, Stats., for administering the land and water resource management planning program, WDNR does not have authority to dictate the LWRM plan content. These are “county” plans, not watershed plans. WDNR has actively participated in the development of the Regional social indicators component of the Region 5 State NPS Evaluation Framework. WDNR continues to submit success stories to the Region and the West Branch of the Sugar River story was recently published on EPA’s website.

A major focus for the 319 program this year will need to be revising of the State’s NPS management plan. The last revision was approved NPSMP was in 2000. WDNR submitted a draft plan on January 7, 2011.

1. Commitment: Nonpoint Source (NPS) Projects

WDNR: Operate the nonpoint source program to achieve and maintain beneficial uses of water while qualifying for enhanced benefits status.

Commitment Status: Wisconsin’s NPS Program is a comprehensive network of programs involving federal, state and local agencies addressing the full array of significant nonpoint sources in the state, including agricultural, urban, forestry, wetlands, and hydrologic modifications to lakes, streams and groundwater. The program consists of multiple programs collectively working to control polluted runoff by encouraging watershed stewardship and public involvement, fostering partnerships, furthering understanding, and providing guidance and financial assistance. Wisconsin uses a mix of voluntary and regulatory approaches coupled with financial and technical assistance.

The following chart shows a comparison of the loading reductions (WQ14a, b, and c) and wetland restorations that are achieved through the NPS program from all Region 5 States and WDNR during FY 2009:

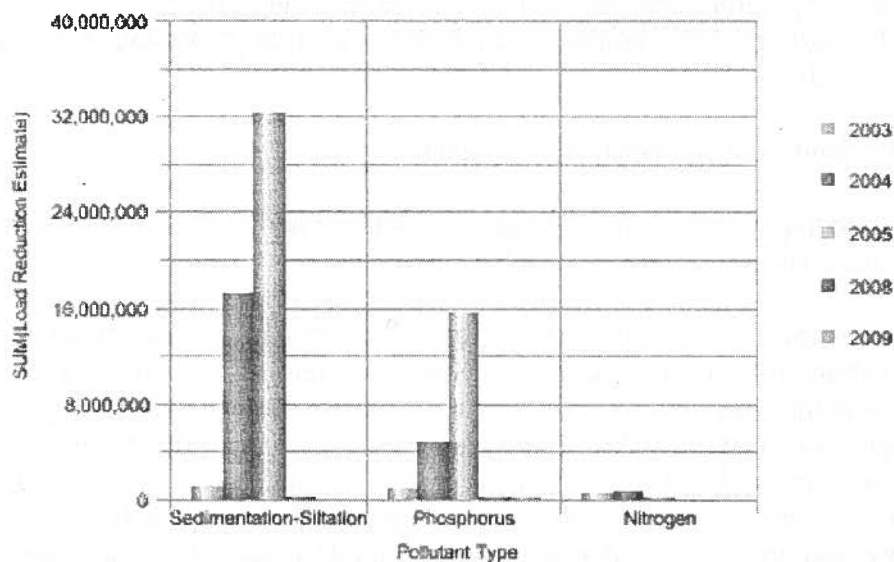
	Sediment Reduction (tons/yr)	Phosphorous Reduction (lbs/yr)	Nitrogen Reduction (lbs/yr)	Wetland Areas Restored/Created (acres)
Region Wide Estimated Result	321,529	379,314	650,054	1673
Wisconsin Reported Results	246,877	218,639	0	0

As the previous chart indicates, Wisconsin projects account for a major part of the Regional reductions for sediment and phosphorus.

As significant as these reductions are they are less than reported in previous years. EPA believes this to be the result of a drop off in data entry into the EPA Headquarters system from which these results are drawn, rather than a reduction in actual performance results.

The following chart shows data for pollutant loading reductions over the past several years:

Wisconsin pollutant Loading Reductions reported 2002- 2010



There appears to have been minimal updating of the load reduction information for 2009. We believe these numbers do not reflect Wisconsin's true contribution to NPS work in the region. Regional staff have met with and provided training to the new 319 coordinator and believe there will be improvement in this area in 2011.

Social Indicators Project

Wisconsin DNR has actively participated in the development of the Regional social indicators component of the Region 5 State NPS Evaluation Framework. This includes

developing effective measures of the impact of education and outreach in influencing behavioral change which results in reduced NPS loadings. The University of Wisconsin, extension representatives are part of the team (co-leading with Purdue University) that developed and are now testing the social indicators. Work in 2010 brings the pilot phase to completion. Data analysis and assessment of the utility and usability of the on-line site will begin in the fall of 2010. Wisconsin currently has four pilots. An on-line system for collecting and analyzing these data is also being tested by the group and the pilot project participants.

WDNR Accountability

Wisconsin has had no new accountability projects complete since our last review.

SP-12 and Success Stories

WDNR continues to submit success stories to the Region. A recent success story was accepted by Headquarters and published on EPA's website.

West Branch of the Sugar River: Livestock grazing along three segments of the West Branch Sugar River resulted in the destruction of in-stream habitat. Therefore, WDNR added these segments to its 1998 303(d) list of impaired waters for not supporting their designated uses. Dane County began working to restore the fishery in the early 1980s. The restoration efforts reduced pollution from sheet and rill erosion, restricted cattle access to streams and riparian areas, and improved management of animal waste from barnyards and feedlots. After nearly 30 years and \$1 million in private, local, state and federal watershed restoration activities, WDNR removed all three segments from its 2004 303(d) impaired waters list. These segments of the West Branch Sugar River are the first to be delisted in Wisconsin as result of environmental restoration.

http://www.epa.gov/nps/success/state/wi_sugar.htm

The Sugar River also qualified as an SP-12 (Measure W) in FY 2009.

State Nonpoint Source Management Plan- (NPSMP)

A major focus for the 319 program this year will be the revision of the State's NPSMP. The last approved NPSMP was in 2000. EPA staff has reviewed the outline for the plan. The draft plan was submitted to EPA on January 7, 2011. This is an essential piece that needs to be in place to assure WDNR's eligibility to receive 319 funds. WDNR will submit the final plan for approval in early April 2011. This is consistent with the April 15, 2011, EPA approval deadline stated by Peter Swenson in a December 16, 2010, email to Russ Rasmussen.

2. Commitment: NPS Reporting

WDNR: Prepares reports to meet EPA Core Performance. The reports include the number of watershed based plans (and water miles/acres covered), supported under State Nonpoint Source Management Programs since October 1, 2001 that have been substantially implemented. The reports should emphasize measurable environmental

improvements, specifically on reductions in sediment and nutrient loadings; provide WRAS for category 1 watersheds receiving 319 funding as part of the application.

Commitment Status: In FY 2009, WDNR submitted its semi-annual (electronically) and annual reports related to the use of its Section 319 Base (PPG) and incremental grants and implementation of watershed-based plans. The FFY 2010 annual report was submitted to Region 5 Section 319 staff on October 15, 2010. Required data entry to the Grant Reporting and Tracking System (GRTS) is ongoing.

The GRTS as noted in the opening discussion on loading reductions, there has been a drop off in reporting of load reductions. From EPA's review this does not appear to be a reduction in work but in staff reporting the information in a manner in which it can be accessed. This information is critical in reporting progress on these grants to congress. Most other states have more than one person trained and responsible for this element of NPS management alone. So that we can assure that the state meets the reporting requirements of the grants, we strongly encourage WDNR to train another person on entry of information into GRTS so that there are, at a minimum, two responsible for entering this information.

3. Commitment: Contaminated Sediments Site Remediation

WDNR: Remediation of contaminated sediment in 303(d) listed waters in order to reduce human and ecological risks from exposure to the chemicals of concern. Progress is made toward the goal of restoring all contaminated sediment sites in the state by 2020, by restoring water quality and reducing fish contaminant levels at key contaminated sediment sites.

Commitment Status: WDNR is committed to the remediation of contaminated sediment in 303(d) listed waters in order to reduce human and ecological risks from exposed to the chemicals of concern and to making progress toward the goal of restoring all contaminated sediment sites in the state by 2020 by restoring water quality and reducing fish contaminant levels at key contaminated sediment sites. The State of Wisconsin is making fairly good progress in removing/remediating contaminated sediments in AOCs. Factors that may influence meeting this goal include: 1. Actions that need to be completed above state and/or federal funds action begin (i.e., Superfund PRP action); 2. Available state funding; and 3. Identification of "new" contaminated sediment sites.

Wetlands

Branch Summary: WDNR is working with its partners to implement the wetland strategy, "Reversing the Loss" for protecting and restoring wetlands. The Wisconsin Wetland Inventory is an important resource, but efforts to update it have been under-funded. WDNR is doing a good job with their wetland monitoring program, but some concerns with management of older wetlands grants are noted.

1. **Commitment: Wetland Restoration Projects**

Develop a wetland project site priority list for wetland restoration or protection efforts by 12/31/2010.

Commitment Status: WDNR put together a list of priority wetland restoration and protection projects as part of the Federal Economic Stimulus Bill and for the Great Lakes Restoration Initiative (GLRI). Several projects from the priority list have received Stimulus funding and GLRI funding.

WDNR would like to put together a more comprehensive priority list using a combination of existing plans, such as the Wisconsin Wildlife Action Plan, with Conservation Opportunity Areas, the Wisconsin Land Legacy Report and Joint Venture Plan, in conjunction with our new Potentially Restorable Wetlands GIS Statewide Map layer when complete. Also, WDNR would like to combine this with pilot watershed and wetland assessment studies underway to prioritize where targeted wetland restoration can occur within a watershed for specific ecological services wetlands provide. Development of the best methods for assessing wetland for a watershed approach is in the pilot phases and we will be able to move forward with prioritization once complete.

2. **Commitment: Wisconsin's Wetland Strategy**

WDNR: Work with external partners to implement the wetland strategy, "Reversing the Loss" for protecting and restoring wetlands.

Commitment Status: This work is going well and will be a focus of an upcoming meeting. Wisconsin is taking some sophisticated, interprogrammatic approaches to wetlands. WDNR is also preparing a Wetland Program Plan which is of great interest to EPA-HQ. When approved by Region 5, this would put WDNR in good position for the wetlands grants to compete for wetlands grants in FY 11.

The Wisconsin Wetland Team updated 'Reversing the Loss' in 2008 and has been working over the last several years to implement the 2008-2010 Action Plans [http://dnr.wi.gov/wetlands/documents/Reversing the Loss 2008-2010 Action Plan Public Revised 8-11.pdf](http://dnr.wi.gov/wetlands/documents/Reversing%20the%20Loss%202008-2010%20Action%20Plan%20Public%20Revised%208-11.pdf). WDNR with their partners have accomplished over 50 of identified actions taking significant steps toward accomplishing our overall vision to reverse the loss of wetlands in Wisconsin. WDNR will be preparing a formal report for release in spring of 2011 highlighting accomplishments as well as our 2011-2012 Action Plan. WDNR will email a separate attachment with their list of draft accomplishments that DNR and their partners on the Wetland Team have completed from 2008-2010.

In September, WDNR submitted Reversing the Loss and their current Action Plan for EPA's review and comments of Wisconsin's Wetland Plan. We have created a crosswalk of their plan's three approaches of Protect, Restore and Explore with their eight strategic goals to demonstrate their plan addresses EPA's four identified core elements for an effective state wetland program.

3. Commitment: Wisconsin Wetland Inventory

WDNR: Complete statewide digital orthophoto seamless coverage of wetlands in cooperation with the National Wetland Inventory.

Commitment Status: The Wisconsin Wetland Inventory is an important resource but efforts to update it have been under-funded. State staff have the depth of technical knowledge and experience to do this well.

Orthorectified digital data has been completed for 35 counties and submitted to National Wetland Inventory (NWI) staff for incorporation into the WI digital wetland database. Orthorectified digital updating is in progress for an additional 10 counties. NWI has provided \$250,000 to accomplish this commitment.

4. Commitment: Wetlands Monitoring and Assessment

Develop and use new tools for wetland monitoring and assessment, and track wetland gains and losses annually (i.e. potentially restorable wetlands with wildlife tool, water quality tool, flood storage, wetland function within the watershed).

Commitment Status: WDNR is doing a good job with their Wetland Monitoring Program. They continue to build it and expand the wetland types they are assessing as well as working to develop improved wetland assessment methods. They have been an active participant in the national discussions leading up to the National Wetland Condition Assessment survey and they have agreed to participate in the intensification efforts lead by Headquarters.

5. Commitment: Wetlands Grants

WDNR: Administer wetland grants to update targeted watershed plans with wetland monitoring data. Targeted watershed plans are updated with data on reed canary grass and soil suitability for potential wetland restoration.

Commitment Status: Wisconsin has a number of wetlands grants. Some of the old ones have been plagued by a procedural logjam on hiring persons to work on them, even though the money is there to pay for it. This has been a serious problem that has caused years of delay for at least one grant. This is not for lack of effort at the staff level.

6. Commitment: Shore lands and Shallows Assessments

Develop a Shore lands and Shallows assessment tool by March 31, 2011. Conduct a study to evaluate effectiveness of the tool by December 31, 2011. Modify tool based on study results by June 30, 2012.

Commitment Status: Development of this tool is tied to a 4-year research project on the water quality component, in collaboration with the watershed monitoring team, WDNR research and USGS. As a result, development of the assessment tool is behind schedule, but it is expected to be available for testing in 2013.

7. Commitment: Criteria and Standards for Lakes and Reservoirs 303(d) Listings

Support development of nutrient criteria and standards for lakes and reservoirs and use to improve 303(d) listing of impaired waters.

Commitment Status: WDNR has prepared an assessment protocol for using the recently promulgated nutrient criteria to evaluate condition of rivers, streams, and lakes. This protocol is awaiting final management review and may be used in preparation of 2012 Integrated Report.

8. Commitment: Lakes Reporting

WDNR: Status report generation for citizen monitoring lakes. Provide lake organizational and educational assistance.

Commitment Status: To be completed by WDNR.

9. Commitment: Lake Assessment Methodology/TMDL Strategy

Revise NR 190 Lake Management Planning Grants and develop corresponding guidance to implement new Lake Assessment Methodology and TMDL implementation strategy.

Commitment Status: Status unknown. To be completed by WDNR.

10. Commitment: Lake Restoration and Protection

Initiate Discovery Lakes for whole-lake research and demonstration projects, large-scale adaptive lake management projects and for projects to restore impaired lakes (Eagle Lake, Legend Lake, Eagle Chain of Lakes ongoing; and initiate at least one additional lake in each region. Select lakes to be surveyed.

Commitment Status: To be completed by WDNR.

Action Item:

EPA held a conference call to discuss Musky Bay on December 16, 2010. Additional information was sent to Region 5 by the state on February 16, 2011 as a follow up to the call (see commitment # 2 under TMDL).

Drinking Water /Ground Water

Branch Summary: WDNR continues to effectively implement the drinking water program, overcoming resource constraints by heavily relying on its data system to aid in decision-making and shifting resources to priority areas of the program from other parts of the program. During 2009, 91.5% of the Wisconsin population served by community water systems (CWS) received drinking water that met all health-based standards. The WDNR committed to 91% in the 2007/2008 PPA. During 2009, 91.3% of Wisconsin CWSs were in compliance with all health-based standards, above the state commitment of 88%.

Wisconsin continues to implement all National Primary Drinking Water Regulations except for Stage 2 Disinfectants/Disinfection By-Products Rule (Stage 2 DBPR), the Long- Term 2 Enhanced Surface Water Treatment Rule (LT2SWTR), and activities associated with returning water system's to compliance for Consumer Confidence Report and Tier 2 and 3 Public Notification violations. Stage 2 DBPR and LT2SWTR implementation will transition to WDNR in 2011.

Major accomplishments include backfilling seven vacant PWSS positions, increasing the amount of PWSS implementation assistance by increasing the number of county health departments that conduct monitoring and sanitary surveys at transient non-community water systems, using consent orders to reduce the amount of community water systems that exceed a maximum contaminant level for radionuclide's, and reviewing and approving \$37.9 million in American Recovery and Reinvestment Act (ARRA) projects.

Wisconsin's most significant administrative effort in the PWSS program was revising Wisconsin's administrative code that regulates public water systems. Wisconsin is in the process of dividing code language into three parts: one that implements the drinking water regulations, another that governs the operations and maintenance of public water systems, and a third that regulates the design of community water systems.

In 2011, the USEPA Region 5 and WDNR Drinking Water and Ground Water programs will start to work together to use enforcement to correct land use practices that fecally contaminate underground sources of drinking water used by private well owners.

Specific commitments from the PPA are discussed below.

1. Commitment: Implement SWTRs - FBRR, SWTR, IESWTR, LT1SWTR, LT2SWTR

The WDNR commits to complete implementation of the SWTR, FBRR and IESWTR. Water systems regulated under the LT1SWTR will be subject to IESWTR requirements.

Implementation of the LT2SWTR will transition from U.S. EPA to WDNR in 2010.

Commitment Status: WDNR implements all of the SWTRs except LT2SWTR. LT2SWTR adoption should occur by 12/31/10 and EPA should receive a primacy application by 3/31/11. Implementation will transition to WDNR from EPA in 2011. The FBRR crosswalk will be submitted by December 1, 2010.

2. Commitment: Implement TCR

The WDNR has committed to completing all associated activities.

Commitment Status: The WDNR is implementing all TCR activity, but still allows samples more than 30 hours old, but less than 48 hours old, to be accepted for compliance purposes. USEPA Region 5 will hold a conference call by the end of March 2011 with the WDNR BDGW to explore if, when, and how this practice will be phased out so that all TCR samples comply with analytic requirements.

3. Commitment: Adopt & Implement the GWR

The WDNR has committed to completing all associated activities.

Commitment Status: WDNR is currently implementing all GWR elements using preexisting authorities. GWR adoption should occur by 12/31/10 and EPA should receive a primacy application by 3/31/11. DWS is able to store monitoring data, sanitary survey completion dates, significant deficiencies, and produce monitoring requirements. Monitoring violations are automatically generated by the data system. Treatment technique violations are entered manually. WDNR committed to completing all automation features by July 2011. WDNR tracks the completion of sanitary survey timeframes through review of a quarterly management report that is discussed with Drinking Water Program managers statewide.

4. Commitment: Implement NPDWRs for Nitrate and Nitrite

The WDNR has committed to completing all associated activities.

Commitment Status: WDNR is completing all activities, including ensuring that CWSs and NTNCWSs that exceed the nitrate trigger level (5 mg/L) complete appropriate quarterly monitoring or receive a violation.

5. Commitment: Implement and Enforce Radionuclide NPDWR

The WDNR commits to completing all activities, except for committing to enforce reporting violations when CWSs send radionuclide samples to laboratories by the end of the appropriate monitoring period, but due to lab backlog, results are not generated that satisfy reporting requirements.

Commitment Status: The WDNR is meeting commitments. In 2004, there were 43 CWSs in Wisconsin whose drinking water exceeded the maximum contaminant level

(MCL) for radium. As of July 2010, only two have not returned to compliance. WDNR elevated these cases to the state Department of Justice (DOJ) where signed settlements with penalty have been agreed to for these systems to return to compliance on an enforceable schedule. Also, CWSs that initially missed radium 228 monitoring have done so, or are receiving enforcement attention from the WDNR.

6. Commitment: Adopt and Implement NPDWRs for IOCs (including As)

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is meeting its commitments to implement National Primary Drinking Water Regulations for inorganic contaminants, including arsenic.

7. Commitment: Implement the Lead & Copper Rule

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is implementing all LCR activity, except it has not reprogrammed their data system to create 3 month monitoring periods for water systems on annual or triennial monitoring schedules to satisfy “warmest month” requirements. They plan to have this accomplished before next year’s monitoring schedules go out to the water systems on annual or triennial monitoring.

8. Commitment: Implement NPDWRs for VOCs

Commitment Status: The WDNR is meeting its commitments to implement National Primary Drinking Water Regulations for volatile organic contaminants.

9. Commitment: Implement NPDWRs for SOC

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is implementing all SOC related activity except they have not reprogrammed their data system to require surface water systems serving greater than 3,300 people to take two samples in a 12 month period. They plan to have this accomplished before next year’s monitoring schedules go out to the surface water systems serving greater than 3,300 people.

10. Commitment: Organic and Inorganic Chemical Monitoring Waiver Program

Commitment Status: WDNR has not re-evaluated and updated their original approved waiver program but they still intend to do so in the future.

11. Commitment: Adopt and Implement the D/DBPRs

The WDNR commits to complete implementation of the Stage 1 D/DBPR.
Implementation of the Stage 2 D/DBPR will transition from EPA to WDNR in 2010.

Commitment Status: Transition will occur in 2011.

12. Commitment: Implement the Sodium NPDWR

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is meeting its commitments to implement the sodium NPDWR.

13. Commitment: Implement the PN Rule

The WDNR commits to all activities, except for:

- a. Follow-up on all Tier 2 violations. The WDNR will report but not enforce Tier 2 violations.
- b. Follow-up on all Tier 3 violations. The WDNR will report but not enforce Tier 3 violations.

Commitment Status: WDNR is reporting all violations to EPA and is taking action against Tier 1 PN violators.

14. Commitment: Implement the CCR Rule

The WDNR commits to all activities, except for:

- a. Enforce the rule when the water system has not issued a CCR. The WDNR will report but not enforce CCR violations.
- b. Enforce the rule when the water system issued a CCR with insufficient content.
The WDNR will report but not enforce CCR violations.

Commitment Status: WDNR is reporting violations to EPA, but is not taking enforcement against those violations, as per their commitment.

15. Commitment: Compliance and Enforcement Management

The WDNR has committed to all associated activities.

Commitment Status: WDNR has/has not completed update to its compliance strategy and submitted it to EPA. WDNR expects to devote time in 2011 to update their compliance strategy for what should be done when any PN is not received from a PWS.

16. Commitment: Data Management

Commitment Status: WDNR database enhancements are being made on schedule.

17. Commitment: Prepare & Submit the Annual Compliance Report (ACR)

WDNR only commits to meeting the July 1 due date when final ACR guidance is issued by EPA before June 1.

Commitment Status: In 2010 EPA SDWIS data was not available until August; therefore, the ACR was not complete by July. As of 10/19/10, the report is "complete" but not finalized/signed and is in the WDNR signature chain.

Commitment: Variances and Exemptions

Commitment Status: WDNR will submit a primacy application by March 31, 2011.

18. Commitment: Gather information to track strategic plan progress.

Report on status of WDNR commitments for measures in USEPA's strategic plan.

Commitment Status: WDNR has met all of its FY10 targets for drinking water and source water protection.

19. Commitment: Prepare for Security Threats at PWSs

The WDNR has committed to all associated activities.

Commitment Status: WDNR continues implementing a number of security related activities, including scheduling table top exercises, enhanced emergency notification of utility operators, and expanding the WisWARN network.

20. Commitment: Operator Certification

The WDNR has committed to all associated activities.

Commitment Status: Of the over 1,900 Wisconsin water systems required to have a certified operator, all but 10 have one. WDNR has recently upgraded its operator certification data system to allow it to upgrade test content more easily.

Action Item – STPB will determine if it is possible for WDNR to keep a small portion of the Operator Certification Expense Reimbursement Grant to pay for ongoing activity but

turn over a larger portion of it back to the DWSRF Loan Fund, without actually closing out the grant, and communicate this to Jim McLimans by December 17th.

21. Commitment: Capacity Development Program

The WDNR has committed to all associated activities.

Commitment Status: The last annual report was completed on 11/2/09. The next one will be completed soon. WDNR implements much of its Capacity Development Program by conducting sanitary surveys. Data system enhancements lead to better sanitary survey program oversight and increased consistency.

22. Commitment: Source Water Protection

The WDNR has committed to all associated activities.

Commitment Status: By FY2010, WDNR targeted 13% of the population and of CWSs would receive minimized risk to public health through source water protection, achieved by “substantial implementation”. National targets are at 41% of CWSs and 55% of population served. Annual reporting to EPA occurred as planned. A WHP checklist was developed to increase quality of plans submitted, streamline review; and make review more internally consistent. EPA would like to work with the WDNR to develop outcome measures for a targeted source water protection area and is willing to use SDWA 1431 orders to provide additional support to the State if such support can lead to more desired outcomes.

23. Commitment: Manage the DWSRF

The WDNR has committed to all associated activities.

Commitment Status: WDNR continues to utilize the small system technical assistance, public water system supervision, and wellhead protection set-asides, and began utilizing the local assistance set-aside in 2009. WDNR reviewed and approved \$37.9 million in American Recovery and Reinvestment Act (ARRA) projects.

24. Commitment: Conduct Joint Assessment of Program Progress Using the Logic Model

Commitment Status: The last WI Logic Model Report was completed in April 2010 for the review period 2004-2008. WDNR supports EPA use of SDWIS as a program management tool. WDNR compares results from EPA generated queries to reports from their Drinking Water System database. This leads to improved violation determination and reporting in Wisconsin.

25. Commitment: Special Initiatives

WDNR makes no commitments under special initiatives at this time although changes that incorporate some of these concepts may be incorporated into future revisions to DWSRF rules.

Commitment Status: WDNR is developing code to regulate water use and conservation within the Great Lakes basin.

27. Commitment: Groundwater Coordination

WDNR reduces its support to the Groundwater Coordinating Council (GCC) by ½ an FTE, with ½ FTE of support remaining.

Commitment Status: Four meetings were held and the annual GCC report to the Legislature was released to the public on October 2, 2010. New state groundwater quality standards for 15 substances (including perchlorate) will go into effect on January 1, 2011.

28. Commitment: Groundwater Data Management

Continue to provide data complete information in a useable format.

Commitment Status: WDNR continues to share data with other State agencies, manages the Groundwater Retrieval Network data system, and updates GIS layers as more accurate/complete data arrives.

29. Commitment: Groundwater Monitoring

Commitment Status: WDNR continues to evolve their monitoring strategy, and coordinates intra-agency solicitation for research/monitoring on special needs monitoring and manages research/monitoring projects.

30. Commitment: Wellhead Protection

Meet SDWA WHP requirements.

Commitment Status: WDNR reports to EPA annually on WHP “substantial implementation” progress, and continues to track implementation, and provide feedback on WHP ordinances.

31. Commitment: Monitoring Well Construction Regulation

Commitment Status: WDNR continued to implement groundwater monitoring protocols and intends to update them in 2011. They respond to two to three calls per week related to the development, construction, and abandonment of monitoring wells,

and contacted staff through telephone contact to promote consistency of information provided.

32. Commitment: Groundwater Information & Education

Commitment Status: WDNR provided four sessions on ground water sand tank flow models and provided five public hearings on proposed ground water standards.

33. Commitment: Keep staff technologically current

Commitment Status: WDNR attended GWPC meetings, participated in WDNR board meetings, state break out groups, and attended fall WHP/SWP meeting in Indianapolis, Indiana.

34. Commitment: Private Well Construction Regulation

Commitment Status: WDNR reviewed plans for high capacity wells and approved or denied the licensing of well drillers. WDNR settled seven civil prosecutions against well drillers and pump installers for total forfeitures of \$166,517, and they updated informational brochures for private well owners. USEPA and WDNR will work together to lay the ground work for a joint SDWA Section 1431 action in 2011 when an underground source of drinking water is fecally contaminated from animal wastes.

Enforcement and Compliance

Branch Summary: WDNR has achieved many of the commitments within their EnPPa. WDNR performed particularly well in implementing compliance monitoring activities for CAFOs and Storm Water (Construction) sites. WDNR has also initiated several enforcement actions on Storm Water and CAFOs.

However, no information is available in ICIS regarding the status of WDNR inspections conducted to meet FY10 CMS commitments for delegated pretreatment or pretreatment industrial users. The ICIS-NPDS data entry deadline for FY 2010 data was February 16, 2011. According to ICIS 36.4% of the Majors received comprehensive inspections (CEIs & Lab Audits) and 18.8% of Minors received inspections. The Major SNC rate continues to be very low at 4.7%. In conclusion, many of the findings in the draft FY08 SRF report related to minimum data requirements still exist in FY10.

1. Commitment: Combined Sewer Overflow Inspections: CMS and EnPPa 6.3

WDNR has two CSO communities in Wisconsin, the cities of Superior and Milwaukee. According to the CSO portion of WDNR's CMS, these cities will be inspected every 2 years.

Commitment Status: No information in ICIS regarding CSO inspections conducted for Superior and Milwaukee. However, we are aware of compliance inspections for the two cities. There was a compliance inspection on 7/12/10 for Superior. The inspection covered CSO compliance, as this item is a high priority for the City of Superior's wastewater collection and treatment system. Superior has completed several important infrastructure improvements, designed to reduce I/I and CSO discharges in the past several years. More documentation on the inspection should be added to SWAMP. Regarding Milwaukee, WDNR submitted a September 2010 letter to Kevin Shafer, Exc. Dir. of MMSD, documenting inspections for 2008, 2009, & 2010 including CSO inspections (this documentation is in SWAMP).

2. Commitment: Combined Sewer and Sanitary Sewer Overflow (CSO/SSO) Abatement: EnPPa 6.3.1&2

CSO/SSO events are reported to EPA on a semiannual basis.

Report annually on the CSO permits with a schedule incorporated into an appropriate enforceable mechanism, including a permit or enforcement order, with specific dates and milestones, including a completion date of a Long Term Control Plan or other acceptable CSO control measures consistent with the 1994 CSP Policy.

Commitment Status: This is a reporting commitment. Currently CSO/SSO events are not available in ICIS. SSO events are manually entered in ICIS, but WDNR is still waiting for batch submission capability.

3. Commitment: Milwaukee Metropolitan Sewerage District and Satellite Systems: EnPPa 6.3.3

WDNR: Implement enforcement actions and stipulations and report on MMSD and satellite system activities related to CSO/SSO.

Commitment Status: State formal actions, stipulations, and compliance schedules are not entered into ICIS. Compliance with the stipulations is monitored by WDNR.

4. Commitment: Sanitary Sewer Overflow Inspections: EnPPa 6.4

WDNR evaluates all reported SSOs for follow-up action. WDNR also annually reviews the collection system section of the Compliance Maintenance Annual Report for SSO events and to assess the need for preventive actions.

Commitment Status: EPA conducted evaluations of the SSO mitigation efforts at +La Crosse and Madison sanitary systems and their associated satellite systems during the performance period. In both cases EPA found that the state's actions were such that adequate measures were in place to sufficiently prevent SSOs. EPA continues to implement the national municipal wet weather initiative and will coordinate the need for Agency action to address any significant noncompliance detected by EPA.

5. Commitment: Delegated Pretreatment (Program Oversight): EnPPa 8.1 and CMS

WDNR will conduct one audit every 5 years, which includes one industrial oversight inspection or five per year; unless it is a large program and then WDNR will do additional oversight inspections.

Commitment Status: No pretreatment inspections in ICIS for FY10. WDNR has one audit in ICIS since 4/2009 out of a universe of 26 Pretreatment systems. This commitment is not being met.

6. Commitment: Pretreatment Industrial Users: EnPPa 8.2 and CMS

WDNR will conduct 2 inspections every 5 years or 64 per year.

Commitment Status: One inspection was conducted at Mitchell Metal Products in Merrill, Wisconsin due to workload reduction. There are approximately 149 SIUs and 53 CIUs in Wisconsin. This commitment is not being met.

7. Commitment: Pretreatment Program Management: EnPPa 8.3 and CMS

POTW audits are conducted once every 5 years. POTW compliance reviews are conducted once each year based on annual reports. An overall control document backlog is maintained below 10%.

Commitment Status: POTW compliance review based on annual reports are routinely conducted. Control document backlog is at 10% (134 of 139 are current). WDNR has completed drafting proposed administrative rule revisions to streamline pretreatment regulations. It will continue to seek approval from the Secretary and the Natural Resources Board to proceed through the administrative rules development process. Proposed revisions to Wisconsin's administrative rule development process may include a more lengthy economic impact analysis by the state and approval of the rule by the Governor prior to submittal of the proposed revisions to the legislature. These additional steps in the administrative rule process make it difficult to predict a completion date for proposed rule revisions.

8. Commitment: Point Source Compliance and Enforcement: EnPPa 9.1 and CMS

WDNR: Follow the approved CMS for inspections at facilities. Conduct inspections, compliance determinations, evaluate violation responses with escalation of continuing violations for secondary enforcement in accordance with WDNR's 2009 inspection strategy. Citizens complaints referred to WDNR are forwarded to WDNR field staff for follow up and response to EPA. These contacts are documented through event-tracker in SWAMP.

Commitment Status: Wisconsin's round 2 SRF was conducted in April 2010 and a draft SRF report is being developed which evaluated the compliance and enforcement program using FY08 data. Tentative overall findings concluded that several minimum data requirements were incomplete, including but not limited to missing formal enforcement actions for majors, missing administrative and civil penalties for majors, not linking actions to violations, and missing single event violations for majors. Although final entry of state FY10 data into ICIS-NPDES (ICIS) deadline for FY 2010 was February 16, 2011, according to ICIS, 36.4. % of the 131 majors received comprehensive inspections (CEIs & Lab Audits) and 18.8% of the 687 minors were inspected. The CMS calls for inspections of majors once every 2 years or 65 per year. With the exception of CAFO inspections, of which 29.2% (54/185) have been completed, the other wet weather inspections are not readily available in ICIS. Many of the findings in the draft FY08 SRF report related to minimum data requirements and reporting still exist in FY10.

According to WDNR, Inspections entries are up to date in ICIS (as much as they are current in SWAMP). There aren't many formal actions for the majors – the formal actions taken for two majors due to effluent violations have been entered in ICIS. Regarding administrative penalties for majors – WDNR did not find effluent violations at major facilities during FY10 that warranted penalty actions.

9. Commitment: WPDES Minors: EnPPa 9.1.1 and CMS

WDNR plans to inspect 20% of all minors every year or 137 per year.

Commitment Status The ICIS-NPDES data entry deadline for FY 2010 was February 16, 2011. According to ICIS, 18.8% of the minors have been inspected.

10. Commitment: CAFO Permit Inspections and Enforcement: EnPPa 11.2 and CMS

WDNR: Inspect CAFOs and report in PCS (ongoing) the known universe of CAFOs larger than 1000 animal units and any newly discovered CAFOs larger than 1000 animal units. Inspect 8 to 10 CAFOs per quarter.

Commitment Status: WDNR currently has 209 permitted CAFOs and all have been inspected.

Notices of non-compliance for CAFOs from October 1 through present:

Notices of Noncompliance: 6

Notices of Violation: 24

Enforcement Conferences: 12

Referral to DOJ: 1

11. Commitment: Storm Water Inspections: EnPPa 12.2 and CMS

Perform compliance inspections of at least 100 industrial facilities annually. Document compliance inspections of industrial facilities in database. Perform compliance inspections of at least 300 construction sites annually. Document compliance inspections of construction sites in database. Perform MS4 reviews and meet with 20% of municipalities annually. Reissue storm water permits by the expiration date.

Commitment Status: From October 1, 2009 through the present WDNR performed 140 industrial storm water inspections at permitted facilities; however, some of the inspections may be repeat inspections.

From October 1, 2009 through the present, WDNR has performed 771 storm water inspections; however some of the inspections may be repeat inspections. EPA conducted five industrial storm water inspections, four of which were multimedia in nature and part of the EJ ECAT initiative in the Milwaukee area.

WDNR conducted eight inspections on Phase I/ Phase II communities from October 1, 2009 through the present and has reviewed the 2009 annual reports.

12. Commitment: Storm Water Reporting: EnPPa 12.3

Report annually on the number of storm water sources associated with industrial activity, number of construction sites over 1 acre and number of designated storm water sources (including municipal MS4s) that are covered by a current individual or general permit or other enforceable mechanism.

Commitment Status: October 1, 2009 through the present, WDNR initiated 10 notices of non-compliance on MS4s.

October 1, 2009 through the present, WDNR issued for Construction Storm Water: 3 citations, 3 enforcement conferences, 28 notices of non-compliance, and 4 notices of violation.

October 1, 2009 through the present WDNR issued for Industrial Storm Water: 3 citations, 3 enforcement conferences, 21 notices of non-compliance, and 6 notices of violation.

Action Items:

1. EPA has provided WDNR with a draft of the SRF Round 2 report. Informal comments have been made by WDNR on the SRF Round 2 report. EPA and WDNR met to discuss the informal comments on March 8, 2011. Water Division will provide comments to Region 5 OECA. Region 5 OECA is expected to provide the report to Headquarters OECA by April 1, 2011.

National Pollutant Discharge Elimination System

Branch Summary: The WDNR NPDES program achieved significant accomplishments in several areas: Wisconsin exceeded their goal to issue environmentally significant NPDES Priority Permits; has 98% of the States CAFO facilities permitted; and published administrative code modifications and developed policy and guidance associated with nutrients and thermal water quality. At the same time, some areas will need additional attention in NPDES, such as reducing permit backlog, to reach joint commitments and goals. State resource cuts are affecting program activities. WDNR and Region 5 will continue to work collaboratively to improve the NPDES program by continuing the use of conference calls, providing technical assistance, and sharing work, as appropriate. Working together as partners, we hope to increase the ability of the State to fulfill its commitments during FY 2011.

1. Commitment: Nutrient Water Quality Standards

Wisconsin draft code modifications and development of policy and guidance associated with existing and revised standards. Participate on the Regional Nutrient Criteria work group. On nutrient standards, WDNR will formally and informally share plans and progress on adoption of nutrient criteria. Goal: to promulgate revisions to phosphorus nutrient water quality standards and develop implementation administrative rules by October 1, 2010.

Commitment Status: Wisconsin approved revisions to Chapters NR 102 and 217, Wis. Adm. Code; referred to as "the phosphorus rule" The rules revisions became effective January, 2011.

2. Commitment: Thermal Water Quality Standards

Wisconsin to draft Administrative code modifications and development of policy and guidance associated with thermal standards. Final rule submittals should be consistent with the requirements of 40 CFR 131.6.

Commitment Status: Wisconsin approved the thermal rule. The rule became effective on October 1, 2010.

3. Commitment: Overall percent of Permit Issued-(Majors, minors and general permits)

Wisconsin maintains a permit issuance rate of 90% overall

Commitment Status: Wisconsin maintained a permit issuance rate of 79% overall.

4. Commitment: Priority Permits

Achieve 100% issuance rate of priority permits.

Commitment Status: Wisconsin issued 9 environmentally significant priority permits, which exceeded the target of 8. The overall performance for priority permits issued is 113%. Wisconsin is commended for this effort.

5. Commitment: CAFOs

Develop a general permit for small, medium, and large CAFOs by June 2010. WDNR develops revisions to state laws and rules for conformance to EPA's 2008 CAFO rule. Proposed revisions are submitted to EPA for review and approval by December 31, 2010.

Commitment Status: WDNR has historically only issued individual permits to CAFOs, but proposed general permits for large dairies, and for medium and small CAFOs in February, 2010. Wisconsin evaluated its CAFO program, and has identified the need to revise its statutes and regulations to incorporate the 2008 federal CAFO rule. The State plans to complete those actions by May 2011. Under the NPDES regulations, these changes are required within 2 years where statutory changes are needed to incorporate federal rule revisions. In this case, that date is December 2010.

WDNR developed two draft general permits and associated Environmental Assessments: one for large CAFOs and one for small/medium CAFOs. These were public noticed on February 19, 2010. Issuance has been delayed pending CAFO permit fee statutory changes. The program continues to seek approval from the Secretary to proceed with development of rule revisions for the CAFO program; but it has not been given permission to proceed. Proposed changes to Wisconsin's administrative rule development process will also require the Governor to approve the proposal to revise the rules prior to any rule-drafting work.

6. Commitment: Maintain the statewide permit backlog for CAFOs at less than 15%.

There are approximately 200 new and existing farm operations that are governed by CAFO discharge permits.

Commitment Status: Wisconsin identified 212 CAFO facilities that require permits in 2010. Wisconsin issued permits to 209 of these facilities. Wisconsin's permit issuance rate for CAFOs was 98%. The remaining three facilities without permits are currently being processed. EPA appreciates and commends this effort.

7. Commitment: Storm Water Permit Issuance.

WDNR: Permitting includes General Permits. MS4s: WDNR only has two federally recognized Phase I Permits, for the cities of Milwaukee and Madison. WDNR has issued 74 individual permits to other communities. One hundred forty-one additional communities are covered by WDNR's General MS4 Permit.

Commitment Status: In November 2010, WDNR asked the public to comment on four industrial storm water general permits. The comment period ends in January 2011.

8. Commitment: Whole Effluent Toxicity (WET) Effluent Limits.

Commitment Status: The issue remains unresolved. As of September, 2010 no permits are affected.

Underground Injection Control

Branch Summary:

The WDNR UIC program has worked very closely with Region 5 for many years, and FY 2010 was no exception. The WDNR has focused available resources on the most urgent Regional and National priorities as identified by Region 5, and has achieved significant results, despite constrained resources. This is due in part to WDNR's excellent coordination between programs, where a resource constrained program like UIC is able to draw upon support from other programs like storm water, wastewater or remediation for various types of UIC wells.

Region 5 has identified closure of existing motor vehicle waste disposal wells as the highest priority, and the WDNR has responded by closing 183 of 192 known motor vehicle waste disposal wells (over 95%) by the end of FY 2010. The closure or permitting of high priority industrial wells is also a priority, and WDNR has permitted all 15 such wells in the state.

Other priorities identified by Region 5 and included in WDNR's FY 10 commitments are inventory work in areas of the state not previously visited to look for additional motor vehicle waste disposal wells and high priority industrial wells, and working toward inclusion in the UIC program's new national database. The WDNR has continued to honor commitments in these areas as well to the extent that resources allow. Clearly more progress could be made in these areas if a way could be found to provide additional resources.

1. Commitment: UIC Identification, Inventory, Assessment, and Regulatory Development:

WDNR will prepare and submit an Application for Federal Assistance and a state UIC program plan to EPA Region 5 by September 1, each year.

Commitment Status: The FY 11 UIC grant application was received during July 2010 and the grant was awarded by Region 5 prior to the end of September 2010. The annual inventory of UIC wells was due by October 15th and was submitted to Region 5 on October 8, 2010. States have 30 days to submit Program Activity Measure (PAM) numbers at mid-year and end-of -year, although the Region has requested a submission within 15 days if possible. WDNR submissions were received on April 7, 2010 and October 8, 2010, well in advance of even the Regional request. WDNR submissions were also correct, with no changes needed. EPA Forms 7520, which track a variety of general program activity, were also submitted in accordance with Regional schedules

2. Commitment: UIC Surveillance, Compliance, and Enforcement:

Commitment Status: As noted above, WDNR has done an outstanding job of closing motor vehicle waste disposal wells, as reflected by Program Activity Measure (PAM) SDW 8. The SDW 7 PAM measures do not apply to WDNR at this time, since no Class I, II or III wells are allowed in the State of Wisconsin.

3. Commitment: UIC/SWAP Integration:

Actions to ensure that state UIC program activities are coordinated with other Safe Drinking Water program and Clean Water Act program activities.

Commitment Status: The WDNR UIC program continues to do an outstanding job of working with all water programs, both at the WDNR and with other agencies, like the Wisconsin Department of Commerce. This leveraging of all available resources has allowed the WDNR UIC program to effectively deal with a wide range of Class V wells, which otherwise would not be possible given the limited national resources of the UIC program.

4. Commitment: UIC Data Management:

WDNR will monitor and comment on federal activities to establish a nationwide database of injection wells.

Commitment Status:

EPA has made data platforms from other states available to the WDNR and has reviewed national database development efforts with the WDNR. The WDNR UIC program has expressed an interest in applying for a Network Exchange Grant from EPA to support development work including data mapping. Since WDNR intends to only file one application from the agency, the UIC proposal would need to be included in the state's submission. UIC agencies in other Region 5 states have received Network Exchange Grants, which have greatly aided their developmental efforts, and we would strongly encourage WDNR to include the UIC program's proposal in their submission.

Drinking Water /Ground Water

Branch Summary: WDNR continues to effectively implement the drinking water program, overcoming resource constraints by heavily relying on its data system to aid in decision-making and shifting resources to priority areas of the program from other parts of the program. During 2009, 91.5% of the Wisconsin population served by community water systems (CWS) received drinking water that met all health-based standards. The WDNR committed to 91% in the 2007/2008 PPA. During 2009, 91.3% of Wisconsin CWSs were in compliance with all health-based standards, above the state commitment of 88%.

Wisconsin continues to implement all National Primary Drinking Water Regulations except for Stage 2 Disinfectants/Disinfection By-Products Rule (Stage 2 DBPR), the Long- Term 2 Enhanced Surface Water Treatment Rule (LT2SWTR), and activities associated with returning water system's to compliance for Consumer Confidence Report and Tier 2 and 3 Public Notification violations. Stage 2 DBPR and LT2SWTR implementation will transition to WDNR in 2011.

Major accomplishments include backfilling seven vacant PWSS positions, increasing the amount of PWSS implementation assistance by increasing the number of county health departments that conduct monitoring and sanitary surveys at transient non-community water systems, using consent orders to reduce the amount of community water systems that exceed a maximum contaminant level for radionuclide's, and reviewing and approving \$37.9 million in American Recovery and Reinvestment Act (ARRA) projects.

Wisconsin's most significant administrative effort in the PWSS program was revising Wisconsin's administrative code that regulates public water systems. Wisconsin is in the process of dividing code language into three parts: one that implements the drinking water regulations, another that governs the operations and maintenance of public water systems, and a third that regulates the design of community water systems.

In 2011, the USEPA Region 5 and WDNR Drinking Water and Ground Water programs will start to work together to use enforcement to correct land use practices that fecally contaminate underground sources of drinking water used by private well owners.

Specific commitments from the PPA are discussed below.

1. Commitment: Implement SWTRs - FBRR, SWTR, IESWTR, LT1SWTR, LT2SWTR

The WDNR commits to complete implementation of the SWTR, FBRR and IESWTR. Water systems regulated under the LT1SWTR will be subject to IESWTR requirements.

Implementation of the LT2SWTR will transition from U.S. EPA to WDNR in 2010.

Commitment Status: WDNR implements all of the SWTRs except LT2SWTR. LT2SWTR adoption should occur by 12/31/10 and EPA should receive a primacy application by 3/31/11. Implementation will transition to WDNR from EPA in 2011. The FBRR crosswalk will be submitted by December 1, 2010.

2. Commitment: Implement TCR

The WDNR has committed to completing all associated activities.

Commitment Status: The WDNR is implementing all TCR activity, but still allows samples more than 30 hours old, but less than 48 hours old, to be accepted for compliance purposes. USEPA Region 5 will hold a conference call by the end of March 2011 with the WDNR BDGW to explore if, when, and how this practice will be phased out so that all TCR samples comply with analytic requirements.

3. Commitment: Adopt & Implement the GWR

The WDNR has committed to completing all associated activities.

Commitment Status: WDNR is currently implementing all GWR elements using preexisting authorities. GWR adoption should occur by 12/31/10 and EPA should receive a primacy application by 3/31/11. DWS is able to store monitoring data, sanitary survey completion dates, significant deficiencies, and produce monitoring requirements. Monitoring violations are automatically generated by the data system. Treatment technique violations are entered manually. WDNR committed to completing all automation features by July 2011. WDNR tracks the completion of sanitary survey timeframes through review of a quarterly management report that is discussed with Drinking Water Program managers statewide.

4. Commitment: Implement NPDWRs for Nitrate and Nitrite

The WDNR has committed to completing all associated activities.

Commitment Status: WDNR is completing all activities, including ensuring that CWSs and NTNCWSs that exceed the nitrate trigger level (5 mg/L) complete appropriate quarterly monitoring or receive a violation.

5. Commitment: Implement and Enforce Radionuclide NPDWR

The WDNR commits to completing all activities, except for committing to enforce reporting violations when CWSs send radionuclide samples to laboratories by the end of the appropriate monitoring period, but due to lab backlog, results are not generated that satisfy reporting requirements.

Commitment Status: The WDNR is meeting commitments. In 2004, there were 43 CWSs in Wisconsin whose drinking water exceeded the maximum contaminant level

(MCL) for radium. As of July 2010, only two have not returned to compliance. WDNR elevated these cases to the state Department of Justice (DOJ) where signed settlements with penalty have been agreed to for these systems to return to compliance on an enforceable schedule. Also, CWSs that initially missed radium 228 monitoring have done so, or are receiving enforcement attention from the WDNR.

6. Commitment: Adopt and Implement NPDWRs for IOCs (including As)

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is meeting its commitments to implement National Primary Drinking Water Regulations for inorganic contaminants, including arsenic.

7. Commitment: Implement the Lead & Copper Rule

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is implementing all LCR activity, except it has not reprogrammed their data system to create 3 month monitoring periods for water systems on annual or triennial monitoring schedules to satisfy “warmest month” requirements. They plan to have this accomplished before next year’s monitoring schedules go out to the water systems on annual or triennial monitoring.

8. Commitment: Implement NPDWRs for VOCs

Commitment Status: The WDNR is meeting its commitments to implement National Primary Drinking Water Regulations for volatile organic contaminants.

9. Commitment: Implement NPDWRs for SOC

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is implementing all SOC related activity except they have not reprogrammed their data system to require surface water systems serving greater than 3,300 people to take two samples in a 12 month period. They plan to have this accomplished before next year’s monitoring schedules go out to the surface water systems serving greater than 3,300 people.

10. Commitment: Organic and Inorganic Chemical Monitoring Waiver Program

Commitment Status: WDNR has not re-evaluated and updated their original approved waiver program but they still intend to do so in the future.

11. Commitment: Adopt and Implement the D/DBPRs

The WDNR commits to complete implementation of the Stage 1 D/DBPR.
Implementation of the Stage 2 D/DBPR will transition from EPA to WDNR in 2010.

Commitment Status: Transition will occur in 2011.

12. Commitment: Implement the Sodium NPDWR

The WDNR has committed to all associated activities.

Commitment Status: The WDNR is meeting its commitments to implement the sodium NPDWR.

13. Commitment: Implement the PN Rule

The WDNR commits to all activities, except for:

- a. Follow-up on all Tier 2 violations. The WDNR will report but not enforce Tier 2 violations.
- b. Follow-up on all Tier 3 violations. The WDNR will report but not enforce Tier 3 violations.

Commitment Status: WDNR is reporting all violations to EPA and is taking action against Tier 1 PN violators.

14. Commitment: Implement the CCR Rule

The WDNR commits to all activities, except for:

- a. Enforce the rule when the water system has not issued a CCR. The WDNR will report but not enforce CCR violations.
- b. Enforce the rule when the water system issued a CCR with insufficient content. The WDNR will report but not enforce CCR violations.

Commitment Status: WDNR is reporting violations to EPA, but is not taking enforcement against those violations, as per their commitment.

15. Commitment: Compliance and Enforcement Management

The WDNR has committed to all associated activities.

Commitment Status: WDNR has/has not completed update to its compliance strategy and submitted it to EPA. WDNR expects to devote time in 2011 to update their compliance strategy for what should be done when any PN is not received from a PWS.

16. Commitment: Data Management

Commitment Status: WDNR database enhancements are being made on schedule.

17. Commitment: Prepare & Submit the Annual Compliance Report (ACR)

WDNR only commits to meeting the July 1 due date when final ACR guidance is issued by EPA before June 1.

Commitment Status: In 2010 EPA SDWIS data was not available until August; therefore, the ACR was not complete by July. As of 10/19/10, the report is "complete" but not finalized/signed and is in the WDNR signature chain.

Commitment: Variances and Exemptions

Commitment Status: WDNR will submit a primacy application by March 31, 2011.

18. Commitment: Gather information to track strategic plan progress.

Report on status of WDNR commitments for measures in USEPA's strategic plan.

Commitment Status: WDNR has met all of its FY10 targets for drinking water and source water protection.

19. Commitment: Prepare for Security Threats at PWSs

The WDNR has committed to all associated activities.

Commitment Status: WDNR continues implementing a number of security related activities, including scheduling table top exercises, enhanced emergency notification of utility operators, and expanding the WisWARN network.

20. Commitment: Operator Certification

The WDNR has committed to all associated activities.

Commitment Status: Of the over 1,900 Wisconsin water systems required to have a certified operator, all but 10 have one. WDNR has recently upgraded its operator certification data system to allow it to upgrade test content more easily.

Action Item – STPB will determine if it is possible for WDNR to keep a small portion of the Operator Certification Expense Reimbursement Grant to pay for ongoing activity but

turn over a larger portion of it back to the DWSRF Loan Fund, without actually closing out the grant, and communicate this to Jim McLimans by December 17th.

21. Commitment: Capacity Development Program

The WDNR has committed to all associated activities.

Commitment Status: The last annual report was completed on 11/2/09. The next one will be completed soon. WDNR implements much of its Capacity Development Program by conducting sanitary surveys. Data system enhancements lead to better sanitary survey program oversight and increased consistency.

22. Commitment: Source Water Protection

The WDNR has committed to all associated activities.

Commitment Status: By FY2010, WDNR targeted 13% of the population and of CWSs would receive minimized risk to public health through source water protection, achieved by “substantial implementation”. National targets are at 41% of CWSs and 55% of population served. Annual reporting to EPA occurred as planned. A WHP checklist was developed to increase quality of plans submitted, streamline review; and make review more internally consistent. EPA would like to work with the WDNR to develop outcome measures for a targeted source water protection area and is willing to use SDWA 1431 orders to provide additional support to the State if such support can lead to more desired outcomes.

23. Commitment: Manage the DWSRF

The WDNR has committed to all associated activities.

Commitment Status: WDNR continues to utilize the small system technical assistance, public water system supervision, and wellhead protection set-asides, and began utilizing the local assistance set-aside in 2009. WDNR reviewed and approved \$37.9 million in American Recovery and Reinvestment Act (ARRA) projects.

24. Commitment: Conduct Joint Assessment of Program Progress Using the Logic Model

Commitment Status: The last WI Logic Model Report was completed in April 2010 for the review period 2004-2008. WDNR supports EPA use of SDWIS as a program management tool. WDNR compares results from EPA generated queries to reports from their Drinking Water System database. This leads to improved violation determination and reporting in Wisconsin.

25. Commitment: Special Initiatives

WDNR makes no commitments under special initiatives at this time although changes that incorporate some of these concepts may be incorporated into future revisions to DWSRF rules.

Commitment Status: WDNR is developing code to regulate water use and conservation within the Great Lakes basin.

27. Commitment: Groundwater Coordination

WDNR reduces its support to the Groundwater Coordinating Council (GCC) by ½ an FTE, with ½ FTE of support remaining.

Commitment Status: Four meetings were held and the annual GCC report to the Legislature was released to the public on October 2, 2010. New state groundwater quality standards for 15 substances (including perchlorate) will go into effect on January 1, 2011.

28. Commitment: Groundwater Data Management

Continue to provide data complete information in a useable format.

Commitment Status: WDNR continues to share data with other State agencies, manages the Groundwater Retrieval Network data system, and updates GIS layers as more accurate/complete data arrives.

29. Commitment: Groundwater Monitoring

Commitment Status: WDNR continues to evolve their monitoring strategy, and coordinates intra-agency solicitation for research/monitoring on special needs monitoring and manages research/monitoring projects.

30. Commitment: Wellhead Protection

Meet SDWA WHP requirements.

Commitment Status: WDNR reports to EPA annually on WHP “substantial implementation” progress, and continues to track implementation, and provide feedback on WHP ordinances.

31. Commitment: Monitoring Well Construction Regulation

Commitment Status: WDNR continued to implement groundwater monitoring protocols and intends to update them in 2011. They respond to two to three calls per week related to the development, construction, and abandonment of monitoring wells,

and contacted staff through telephone contact to promote consistency of information provided.

32. Commitment: Groundwater Information & Education

Commitment Status: WDNR provided four sessions on ground water sand tank flow models and provided five public hearings on proposed ground water standards.

33. Commitment: Keep staff technologically current

Commitment Status: WDNR attended GWPC meetings, participated in WDNR board meetings, state break out groups, and attended fall WHP/SWP meeting in Indianapolis, Indiana.

34. Commitment: Private Well Construction Regulation

Commitment Status: WDNR reviewed plans for high capacity wells and approved or denied the licensing of well drillers. WDNR settled seven civil prosecutions against well drillers and pump installers for total forfeitures of \$166,517, and they updated informational brochures for private well owners. USEPA and WDNR will work together to lay the ground work for a joint SDWA Section 1431 action in 2011 when an underground source of drinking water is fecally contaminated from animal wastes.